

Attorney's Docket No.: 34874-082 / 2003P00266US
Customer Number: 64280

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Serial No.: 10/726,004 Conf. No.: 5231
Applicant : Gerd Danner et al.
Filed : December 1, 2003
TC/Art Unit : 2161
Examiner : Chen, Te Y.
For : OPERATIONAL REPORTING ARCHITECTURE

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**REQUEST FOR RECONSIDERATION OF DISMISSAL OF PETITION UNDER 37
C.F.R. §1.313(c) TO WITHDRAW FROM ISSUE AFTER PAYMENT OF ISSUE
FEE**

Applicant on May 5, 2010 submitted a Petition to Withdraw Application from Issue under 37 C.F.R. § 1.313(c) to request withdrawal of the above referenced application from issue subsequent to payment of the patent issue fee. Applicant at that time had already paid the patent issue fee via EFS-WEB on April 30, 2010. After payment of the patent issue fee, the undersigned counsel for Applicants learned of the citation of the prior art reference cited in a related patent application pending in Europe, namely, European Patent Application 04 803 408.6-2201.

CERTIFICATE OF TRANSMISSION BY FACSIMILE

I hereby certify that this correspondence is being transmitted by facsimile to the Patent and Trademark Office on the date indicated below

Date of Transmission May 12, 2010
Signature 

Typed or Printed Name of Person Signing Certificate Teri Barnett

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In the Petition, Applicants respectfully requested the Office withdraw the application from issue under the duty to disclosure under §§ 1.56, 1.97, and 1.98, and consider the Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 filed concurrently with this Petition in order to submit an Information Disclosure Statement and Form 1449/PTO to disclose references cited in an office action issued under European Patent Application 04 803 408.6-2201. The corresponding Information Disclosure Statement was not filed until May 11, 2010 due to delays in obtaining a requisite translation of a German language reference. Unbeknownst to the undersigned, the Petition to Request Withdrawal had been dismissed on May 7, 2010 as allegedly not complying with the 37 C.F.R. 1.313(c).

As an initial matter, it is believed that the combination of the Petition which identified a new issue for consideration, namely the recently cited references from a corresponding EPO application, in combination with the Request for Continued Examination constitutes a "submission" even though the Information Disclosure Statement was subsequently filed. In any event, it is believed that the best interests of both the USPTO and the Applicant will be served with granting the petition and allowing the examiner to consider the newly cited art.

Therefore, it is respectfully requested that the dismissal of the petition be reversed.

Should the Office have any questions concerning this Petition, the Office is requested to contact the undersigned at +1.858.314.1535.

Respectfully submitted,

Date: May 12, 2010

/ek3/
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